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## NOTICE OF ALLOWANCE AND FEE(S) DUE

Briggs and Morgan, P.A.: IP Docketing

32300 7590 04/17/2009  
BRIGGS AND MORGAN P.A.  
2200 IDS CENTER  
80 SOUTH 8TH ST  
MINNEAPOLIS, MN 55402

Atty CEH Initials 1<sup>st</sup> CEH Initials 2<sup>nd</sup> LS

APR 20 2009

Docket Number 33155.28  
Req'd Action Issue Fee & Pub. Fee  
Initial Deadline 7/17/2009

EXAMINER	
THOMAS, MIA M	
ART UNIT	PAPER NUMBER

2624

DATE MAILED: 04/17/2009

APPLICATION NO.	FILING DATE	Final Deadline	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,822	02/03/2006		Jean-Christophe Fondeur	33155.28	5869

TITLE OF INVENTION: METHOD OF DETERMINING THE LIVING CHARACTER OF AN ELEMENT CARRYING A FINGERPRINT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	07/17/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** **Mail** **Mail Stop ISSUE FEE**  
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**INSTRUCTIONS:** This form should be used for transmitting the **ISSUE FEE** and **PUBLICATION FEE** (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS** (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

32300 7590 04/17/2009

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## **CERTIFICATE OF ELECTRONIC TRANSMISSION**

I hereby certify that this document is being transmitted to the U.S. Patent and Trademark Office via EFS Web online filing to Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

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(Signature)
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,822	02/03/2006	Jean-Christophe Fondeur	33155.28	5869

**TITLE OF INVENTION:** METHOD OF DETERMINING THE LIVING CHARACTER OF AN ELEMENT CARRYING A FINGERPRINT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	07/17/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
THOMAS, MIA M	2624	382-124000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1	_____
2	_____
3	_____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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10/539,822	02/03/2006	Jean-Christophe Fondeur	33155.28	5869

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EXAMINER

THOMAS, MIA M

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 04/17/2009

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 225 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 225 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

**Notice of Allowability**

Application No.

10/539,822

Applicant(s)

FONDEUR ET AL.

Examiner

Mia M. Thomas

Art Unit

2624

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's remarks received on 29 December 2008.
2. ☒ The allowed claim(s) is/are 12 and 15-22.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 5. <input type="checkbox"/> Notice of Informal Patent Application                                |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____.           |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|  | 9. <input checked="" type="checkbox"/> Other <u>Please see attached (Applicant's facsimile).</u> |



### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview on 07 April 2009 with Mr. Gerald Helget (Reg. No. 30,948).

\*Applicant has provided newly amended claims mainly to place the claims in condition for allowance in view of the In re Bilski decision (35 U.S.C. 101). Please see attached facsimile which provides new listings' of the claims in addition to the replacement sheets regarding Figures 6 and 7 of the instant application. The Examiner has further included that the application based upon the facsimile submitted has been amended as follows:

#### In The Claims:

At claim 12, line 1, delete--"the"--; replace with--"a"--.

At claim 12, line 2, delete--"using a microprocessor, comprising the step of:"--; replace with--"using a microprocessor to perform the steps of:"--.

At claim 12, line 6, after "the" and before "electrodes"; insert -- "two first"--.

At claim 12, line 7, after "the" and before "electrodes"; insert -- "two first"--.

At claim 12, line 7, after "finger" and before "at"; delete--"D"--.

At claim 17, line 1, delete--"the"--; replace with--"a"--.

At claim 17, line 10, delete--"the"--; replace with--"an"--.

At claim 17, line 11, after "said" and before "electrodes"; insert -- "two" --.

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At claim 17, line 13, after "finger" and before "at"; delete—"D"--.

At claim 17, line 16, delete—"other"; replace with "unselected".

At claim 17, line 16/17, after the second occurrence of the word "other" and before "impedance"; insert --"unselected"--.

At claim 19, line 1, delete--"the"--; replace with--"a"--.

At claim 19, line 2, delete--"an element"--; replace with--"a finger of a person"--.

At claim 19, line 7, after "of" and before "two"; delete—"the"--.

At claim 19, line 7, after "two" and before "electrodes"; insert -- "of the"--.

At claim 19, line 11, after "impedance" and before "as"; insert -- "measured by the electrodes--".

At claim 20, line 1, delete--"the"--; replace with--"a"--.

At claim 20, line 2, delete--"an element"--; replace with--"a finger of a person"--.

At claim 20, line 11, after "impedance" and before "as"; insert -- "measured by the electrodes--".

At claim 20, line 13, delete--"the element"--; replace with--"a finger of a person"--.

At claim 21, line 1, delete--"the"--; replace with--"a"--.

At claim 21, line 2, delete--"an element"--; replace with--"a finger of a person"--.

At claim 21, line 14, after "impedance" and before "as"; insert -- "measured by the electrodes--".

At claim 21, line 16, delete--"the element"--; replace with--"a finger of a person"--.

2. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: at page 7 of the applicant's faxed amendment to the instant application,

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applicant has also provided a replacement sheet (see attached) that formally identifies numeral 1 at Figure 6 and Figure 7. By way of the facsimile, applicant has made these above agreed upon drawing changes.

3. This Notice of Allowability/Examiner's Amendment is responsive to applicant remarks/arguments received on 29 December 2008. Claims 1-11, 13 and 14 are canceled. Claims 12, 15-22 are currently amended or previously presented and are pending in the application.

4. Applicant's argument, see pages 6-11 have been fully considered and are persuasive. The rejections of Claims 12, 15-22 have been withdrawn.

5. Positive Statement: Applicant has amended Claim 12, (newly renumbered as Claim 1) to recite "a method of determining a living character of a finger of a person carrying a fingerprint using a microprocessor to perform the steps of:..." to overcome 35 U.S.C. 101 rejections in view of In re Bilski. The recitation of using a microprocessor to perform the steps of the method of Claim 12 now adequately ties the "process" to another statutory category. It is clear to a person of ordinary skill in the art of personal identification using biometrics such as fingerprints that determining a living character of a finger by making measurements of impedance must be performed by a microprocessor or the like.

6. Claims 12, 15-22 distinguish over the prior art. Claims 12, 15-22 are allowable. These claims will be renumbered as 1-9.



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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mia M. Thomas whose telephone number is (571)270-1583. The examiner can normally be reached on Monday-Thursday 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached at 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*/Mia M Thomas/*  
Examiner, Art Unit 2624

*/Andrew W Johns/*  
Primary Examiner, Art Unit 2624

<b>Notice of References Cited</b>	Application/Control No. 10/539,822	Applicant(s)/Patent Under Reexamination FONDEUR ET AL.	
	Examiner Mia M. Thomas	Art Unit 2624	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2003/0072475 A1	04-2003	Tamori, Teruhiko	382/124
*	B	US-6,956,608 B1	10-2005	Shapiro et al.	348/335
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
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	P					
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	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.